

CRIMINAL LAW DIVISION – ADDRESS AND TELEPHONE NUMBERS

NAME	TELEPHONE NUMBER	Office Number
Rob Wilson	Mobile: <input type="text" value="GRO"/>	<input type="text" value="GRO"/>
Debbie Helszajn	Mobile: <input type="text" value="GRO"/>	
Jamail Singh	Mobile: <input type="text" value="GRO"/>	<input type="text" value="GRO"/>
Phil Taylor	Mobile: <input type="text" value="GRO"/>	<input type="text" value="GRO"/>
Jenee Andrews	Mobile: <input type="text" value="GRO"/>	<input type="text" value="GRO"/>
Marilyn Benjamin	Mobile: <input type="text" value="GRO"/>	<input type="text" value="GRO"/>
Monica Thompson		<input type="text" value="GRO"/>
Ian Pocknell		<input type="text" value="GRO"/>

The Code for Crown Prosecutors

The Decision Whether to Prosecute

- 3.1 In more serious or complex cases, prosecutors decide whether a person should be charged with a criminal offence, and, if so, what that offence should be. They make their decisions in accordance with this Code and the DPP's Guidance on Charging. The police apply the same principles in deciding whether to charge or summons a person in those cases for which they are responsible.
- 3.2 The police and other investigators are responsible for conducting enquiries into an allegation that a crime may have been committed. Every case that prosecutors receive from the police or other investigators is reviewed. Prosecutors must ensure that they have all the information they need to make an informed decision about how best to deal with the case. This will often involve prosecutors providing guidance and advice to the police and other investigators about lines of inquiry, evidential requirements, and assistance in any pre-charge procedures throughout the investigative and prosecuting process. However, prosecutors cannot direct the police or other investigators.
- 3.3 Prosecutors should identify and, where possible, seek to rectify evidential weaknesses, but, subject to the Threshold Test (see section 5), they should swiftly stop cases which do not meet the evidential stage of the Full Code Test (see section 4) and which cannot be strengthened by further investigation, or where the public interest clearly does not require a prosecution (see section 4). Although the prosecutor primarily considers the evidence and information supplied by the police and other investigators, the suspect or those acting on his or her behalf may also submit evidence or information to the prosecutor via the police or other investigators, prior to charge, to help to inform the prosecutor's decision.

The Code for Crown Prosecutors

- 3.4 Prosecutors must only start or continue a prosecution when the case has passed both stages of the Full Code Test (see section 4). The exception is when the Threshold Test (see section 5) may be applied where it is proposed to apply to the court to keep the suspect in custody after charge, and the evidence required to apply the Full Code Test is not yet available.
- 3.5 Prosecutors must make sure that they do not allow a prosecution to start or continue where to do so would be seen by the courts as oppressive or unfair so as to amount to an abuse of the process of the court.
- 3.6 Review is a continuing process and prosecutors must take account of any change in circumstances that occurs as the case develops. Wherever possible, they should talk to the investigator first if they are thinking about changing the charges or stopping the case. Prosecutors and investigators work closely together, but the final responsibility for the decision whether or not a case should go ahead rests with the prosecution service.
- 3.7 Parliament has decided that a limited number of very serious or sensitive offences should only be taken to court with the agreement of the DPP. These are called "consent" cases. In such cases, the DPP or prosecutors acting on his behalf apply the Code in deciding whether to give consent to a prosecution.

The Code for Crown Prosecutors

The Full Code Test

- 4.1 The Full Code Test has two stages: (i) the evidential stage; followed by (ii) the public interest stage.
- 4.2 In the vast majority of cases, prosecutors should only decide whether to prosecute after the investigation has been completed and after all the available evidence has been reviewed. However, there will be cases where it is clear, prior to the collection and consideration of all the likely evidence, that the public interest does not require a prosecution. In these rare instances, prosecutors may decide that the case should not proceed further.
- 4.3 Prosecutors should only take such a decision when they are satisfied that the broad extent of the criminality has been determined and that they are able to make a fully informed assessment of the public interest. If prosecutors do not have sufficient information to take such a decision, the investigation should proceed and a decision taken later in accordance with the Full Code Test set out in this section.
- 4.4 Prosecutors must follow any guidance issued by the DPP to ensure that decisions in these cases are appropriate and correct.

The Evidential Stage

- 4.5 Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.
- 4.6 A realistic prospect of conviction is an objective test based solely upon the prosecutor's assessment of the evidence and any information that he or she has about the defence that might be

The Code for Crown Prosecutors

put forward by the suspect. It means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a different test from the one that the criminal courts themselves must apply. A court may only convict if it is sure that the defendant is guilty.

- 4.7 When deciding whether there is sufficient evidence to prosecute, prosecutors must consider whether the evidence can be used and whether it is reliable. There will be many cases in which the evidence does not give any cause for concern. But there will also be cases in which the evidence may not be as strong as it first appears. In particular, prosecutors will need to consider the following issues.

Can the evidence be used in court?

- a) Is it likely that the evidence will be excluded by the court?
There are legal rules that might mean that evidence which seems relevant cannot be given at a trial. For example, is it likely that the evidence will be excluded because of the way in which it was obtained?
- b) Is the evidence hearsay? If so, is the court likely to allow it to be presented under any of the exceptions which permit such evidence to be given in court?
- c) Does the evidence relate to the bad character of the suspect? If so, is the court likely to allow it to be presented?

Is the evidence reliable?

- d) What explanation has the suspect given? Is a court likely to find it credible in the light of the evidence as a whole? Does the evidence support an innocent explanation?

The Code for Crown Prosecutors

- e) Is there evidence which might support or detract from the reliability of a confession? Is its reliability affected by factors such as the suspect's level of understanding?
 - f) Is the identification of the suspect likely to be questioned? Is the evidence of his or her identity strong enough? Have the appropriate identification procedures been carried out? If not, why not? Will any failure to hold the appropriate identification procedures lead to the evidence of identification being excluded?
 - g) Are there concerns over the accuracy, reliability or credibility of the evidence of any witness?
 - h) Is there further evidence which the police or other investigators should reasonably be asked to find which may support or undermine the account of the witness?
 - i) Does any witness have any motive that may affect his or her attitude to the case?
 - j) Does any witness have a relevant previous conviction or out-of-court disposal which may affect his or her credibility?
 - k) Is there any further evidence that could be obtained that would support the integrity of evidence already obtained?
- 4.8 Where it is considered that it would be helpful in assessing the reliability of a witness' evidence or in better understanding complex evidence, an appropriately trained and authorised prosecutor should conduct a pre-trial interview with the witness in accordance with the relevant Code of Practice.
- 4.9 Prosecutors should not ignore evidence because they are not sure that it can be used or is reliable. But they should look closely at it when deciding if there is a realistic prospect of conviction.

4.10 **GRO** In public interest
breach of trust

